

## **REMARKS**

Entry of this amendment and reconsideration of this application are respectfully requested.

Claims 31-34 were rejected under 35 U.S.C. §102(e) for allegedly being anticipated by Schinabeck. Applicants respectfully traverse each of these rejections. Claims 31-34 were rejected under 35 U.S.C. §102(b) for allegedly being anticipated by Albrecht. Applicants respectfully submit that these rejections do not apply to the amended claims.

Albrecht discloses water-soluble or water-swellaable copolymers containing sulfonic groups and based on (meth)acrylamide alkyl sulfonic acids and (meth)acrylamide or N-vinyl compounds, as well as their use as additives in aqueous building material mixes or for water based painting and coating systems. The copolymers have an average molecular weight of 50,000 to 5,000.000 g/mol and are made of at least four structural components a) to d). These components are described further at column 2, line 40 through column 4, line 44 of Albrecht.

Schinabeck relates to water-soluble or water-swellaable copolymers, which contain sulfo groups and which are based on (meth)acrylamide alkyl sulfonic acids and (meth)acrylamide or N-vinyl compounds, and to their use as additives for aqueous construction material systems or for water-based paint and coating systems. The copolymers have an average molecular weight of 50,000 to 20,000.000 g/mol and are made of at least four components a) to d), which are further characterized in column 3, line 20 through column 6, line 23 of Schinabeck.

The polymers disclosed in Albrecht and Schinabeck, in each case, comprise at least four structural components a), b), c) and d). In contrast thereto, the polymers according to the presently claimed invention are formed from a maximum of three structural components, with component a) (substituted (meth)acrylic derivative containing sulfo groups and represented by the general formula I) being obligatorily present.

Thus, it appears that the Examiner's concern seems to result from the term "copolymer" used in pending claim 31, which has obviously been interpreted as comprising any polymer formed from at least two different monomers, is now not at issue, since claim 31 now recites that the composition according to the presently claimed invention makes use of a water-soluble bipolymer (i.e., binary polymer) or terpolymer containing sulfo groups. Support for this amendment can be found, inter alia, in Example A1 of the present application.

Since neither Schinabeck nor Albrecht disclose this feature, these rejections must be withdrawn.

Note that claim 31 has been amended in independent format since claim 18 was withdrawn.

Claims 31-34 were rejected under 35 U.S.C. §103(a) for allegedly being obvious over Oswald. Applicants respectfully traverse.

Oswald discloses water-soluble copolymers comprising structural units derived from acrylamido-N-methylenepropenylsulfonates (AMPS), vinylphosphonic acid and vinylphosphonic salts (VPS), and cationic allyl or vinyl compounds, as well as their use as additives in deep wells, cemented deep wells and completion and clearing-out liquids and for reducing the permeability of the water in the area close to the probe of petroleum or natural gas and water-conveying horizons. The disclosed copolymers have an average molecular weight of 50,000 to 3,000,000 g/mol and consist of at least three structural components A), B), and C1) or C2), which are further described at column 5, line 12 to column 6, line 15 of Oswald.

Claim 31 now specifies to the use of bipolymers or terpolymers, so this rejection should be withdrawn since the terpolymers and quarterpolymers disclosed in Oswald must contain a

vinylphosphonic acid as a structural component which is not present in the polymers according to the present invention.

Furthermore, Applicants have become aware that the species election of structural units (b) and (c) was not correct.


With respect to structural unit (b), the elected compound [2-(methacrylamido)propyl]-trimethylammonium chloride is not an amine (as required by the claims), but an ammonium salt falling within the scope of structural unit (c) only. Thus, Applicants propose to correct this by electing [2-(methacryloyloxy)-ethyl]-diethylamine, which is mentioned in Example A4 of the present application.

Additionally, in the Response to the Restriction Requirement and Amendment filed on April 3, 2009, the compound elected as a representative of structural unit (c) contains a spelling mistake and should read [3-(methacryloylamino)-propyl]trimethylammonium chloride (cf. Example A4) rather than of [3-(methacrylamino)propyl]-trimethylammonium chloride. Applicant's apologize for any inconvenience this may have caused the Examiner.

Commissioner is hereby authorized to charge any deficiency in the fees filed, asserted to be filed or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to our Deposit Account No. 50-0624, under Order No. NY-HUBR-1294-US.

Respectfully submitted

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